

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Lassen)

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL JAMES EVANS,

Defendant and Appellant.

C087945

(Super. Ct. No. CH035079)

Appointed counsel on appeal for defendant Michael James Evans filed an opening brief setting forth the facts of the case and asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Finding no arguable error that would result in a disposition more favorable to defendant, we affirm.

We provide the following brief description of the facts and procedural history of defendant's case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In September 2016, defendant and codefendant Anthony Arturo Valles were inmates at High Desert State Prison. One day in the prison yard, correctional officers saw two inmates attack another inmate. One of the attackers made a repeated downward

stabbing motion with his right arm. The officers yelled at the inmates to stop, but they continued the assault. After yelling for the inmates to get down multiple times, the attackers eventually stopped; defendant was identified as the inmate who made 10 to 15 stabbing motions during the attack.

After the attack, a sharp object was found protruding from the victim's back. The victim sustained multiple stab wounds, a collapsed lung, and fractures, including a fractured orbital bone in his right eye. Both defendant and Valles were found with abrasions on their knees and bloody clothes, and Valles also had abrasions on his hands and knuckles.

Defendant and Valles were jointly charged with attempted premeditated murder (Pen. Code, §§ 664/187, subd. (a); count I),¹ assault with a deadly weapon by an inmate (§ 4501, subd. (a); count II), and possession of a sharp object in a penal institution (§ 4502, subd. (a); count III). For counts I and II, it was alleged that defendant and Valles inflicted great bodily injury (§ 12022.7, subd. (a)). It was further alleged that defendant had a prior strike conviction (§ 667, subd. (b)-(i)).

Defendant did not testify at trial. The jury found him guilty as charged and found the great bodily injury enhancements true.² Defendant waived a jury trial on the prior conviction allegations and admitted a prior juvenile adjudication for assault with a firearm.

The court sentenced defendant to an indeterminate life term with a minimum eligible parole date of seven years for the attempted premeditated murder conviction, plus

¹ Undesignated statutory references are to the Penal Code.

² The jury found codefendant Valles guilty of attempted murder and assault with a deadly weapon, but found him not guilty of possession of a sharp instrument while an inmate of a penal institution. Valle's convictions are not at issue here.

three years for the great bodily injury enhancement. The court imposed and stayed the sentences on counts II and III under section 654. Because it was later determined that defendant was under the age of 16 when he committed the prior juvenile adjudication, the parties agreed the offense did not qualify as a strike under the Three Strikes law, and the court did not double defendant's sentence. (§ 667, subd. (d)(3)(A).)

The court imposed a \$300 restitution fine (§ 1202.4), and a \$300 parole revocation restitution fine, which was suspended unless parole was revoked (§ 1202.45). The court later stayed these fines in light of the recently published decision in *People v. Dueñas* (2019) 30 Cal.App.5th 1157. Defendant timely appealed.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief setting forth the facts of the case and requesting that this court review the record to determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised of his right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____, J.
s/BUTZ

We concur:

_____, P. J.
s/RAYE

_____, J.
s/HULL